

JUN 17 2008

**Board of Vocational Nursing  
and Psychiatric Technicians**

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**BEFORE THE  
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. VN-2006-1543

**DAYANA MARURI POSADA AKA  
DAYANA F. MARURI POSADA AKA  
DAYANA FERNANDA MARURIGUEVARA**  
3735 S. Morganfield Avenue  
West Covina, CA 91792

**A C C U S A T I O N**

**Vocational Nurse License No. VN 197396**

Respondent.

Complainant alleges:

**PARTIES**

1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this  
Accusation solely in her official capacity as the Executive Officer of the Board of Vocational  
Nursing and Psychiatric Technicians (Board).

2. On or about November 26, 2001, the Board issued Vocational Nurse  
License Number VN 197396 to Dayana Maruri Posada aka Dayana F. Maruri Posada aka  
Dayana Fernanda Maruriguevara (Respondent). The Vocational Nurse License was in full force  
and effect at all times relevant to the charges brought herein. The license expired on December  
31, 2005, and has not been renewed.

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1 JURISDICTION

2 3. This Accusation is brought before the Board, under the authority of the  
3 following laws. All section references are to the Business and Professions Code unless  
4 otherwise indicated.

5 STATUTORY PROVISIONS

6 4. Section 2875 of the Business and Professions Code (Code) provides that  
7 the Board may discipline the holder of a vocational nurse license for any reason provided in  
8 Article 3 (commencing with section 2875) of the Vocational Nursing Practice Act.

9 5. Section 118, subdivision (b), of the Code provides that the expiration of a  
10 license shall not deprive the Board jurisdiction to proceed with a disciplinary action during the  
11 period within which the license may be renewed, restored, reissued or reinstated. Under section  
12 2892.1 of the Code, the Board may renew an expired license at any time within four years after  
13 the expiration.

14 6. Section 2878 of the Code states:

15 The Board may suspend or revoke a license issued under this chapter [the  
16 Vocational Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.)] for any of  
the following:

17 (a) Unprofessional conduct, which includes, but is not limited to, the  
18 following:

19 ...

20 (f) Conviction of a crime substantially related to the qualifications,  
functions, and duties of a licensed vocational nurse, in which event the record of  
21 the conviction shall be conclusive evidence of the conviction.

22 7. Section 2878.5 of the Code states:

23 In addition to other acts constituting unprofessional conduct within the  
24 meaning of this chapter [the Vocational Nursing Practice Act] it is unprofessional  
conduct for a person licensed under this chapter to do any of the following:

25 (a) Obtain or possess in violation of law, or prescribe, or except as  
26 directed by a licensed physician and surgeon, dentist or podiatrist administer to  
himself or herself or furnish or administer to another, any controlled substance as  
27 defined in Division 10 of the Health and Safety Code, or any dangerous drug as  
defined in Section 4022.

28 ...



1 (c) Be convicted of a criminal offense involving possession of any  
2 narcotic or dangerous drug, or the prescription, consumption, or  
3 self-administration of any of the substances described in subdivisions (a) and (b)  
4 of this section, in which event the record of the conviction is conclusive evidence  
5 thereof.

6 8. Section 492 of the Code states, in part:

7 Notwithstanding any other provision of law, successful completion of any  
8 diversion program under the Penal Code, or successful completion of an alcohol  
9 and drug problem assessment program under Article 5 (commencing with Section  
10 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit  
11 any agency established under Division 2 (commencing with Section 500) of this  
12 code, or any initiative act referred to in that division, from taking disciplinary  
13 action against a licensee or from denying a license for professional misconduct,  
14 notwithstanding that evidence of that misconduct may be recorded in a record  
15 pertaining to an arrest.

#### 16 **REGULATORY PROVISION**

17 9. California Code of Regulations, title 16, section 2521, states:

18 For the purposes of denial, suspension, or revocation of a license pursuant  
19 to Division 1.5 (commencing with Section 475) of the Business and Professions  
20 Code, a crime or act shall be considered to be substantially related to the  
21 qualifications, functions or duties of a licensed vocational nurse if to a substantial  
22 degree it evidences present or potential unfitness of a licensed vocational nurse to  
23 perform the functions authorized by his license in a manner consistent with the  
24 public health, safety, or welfare. Such crimes or acts shall include but not be  
25 limited to those involving the following:

26 ...

27 (c) Violating or attempting to violate, directly or indirectly, or assisting in  
28 or abetting the violation of, or conspiring to violate any provision or term of  
Chapter 6.5, Division 2 of the Business and Professions Code.

#### 29 **COST RECOVERY**

30 10. Section 125.3 of the Code provides that the Board may request the  
31 administrative law judge to direct a licentiate found to have committed a violation or violations  
32 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
33 enforcement of the case.

#### 34 **FIRST CAUSE FOR DISCIPLINE**

##### 35 **(Conviction of Substantially Related Crime)**

36 11. Respondent is subject to disciplinary action under section 2878,  
37 subdivision (f), in conjunction with California Code of Regulations, title 16, section 2521,  
38



1 subdivision (c), in that Respondent was convicted of a crime substantially related to the  
2 qualifications, functions, or duties of a licensed vocational nurse. Specifically, on or about June  
3 7, 2007, in a criminal proceeding entitled *The People of the State of California v. Dayana F.*  
4 *Maruri Posada*, in Orange County Superior Court, Case No. 07NF0905, Respondent pled guilty  
5 and was convicted of a violation of Penal Code sections 484(a)/488 (theft with prior conviction),  
6 a felony. Respondent also plead guilty to a violation of Health and Safety Code section 11377,  
7 subdivision (a) (illegal possession of methamphetamine) and was placed on deferred entry of  
8 judgment (diversion) and ordered to complete a drug program pursuant to Penal Code section  
9 1000.

10 a. The circumstances surrounding the conviction are that on or about January  
11 27, 2007, Respondent stole merchandise from a store in Disneyland Amusement Park in  
12 Anaheim, California. Pursuant to a search incident to the arrest, Methamphetamine and drug  
13 paraphernalia was found in Respondent's purse.

14 b. For the theft conviction, Respondent was sentenced to three years of  
15 formal probation, thirty days in county jail, and payment of fines.

## 16 **SECOND CAUSE FOR DISCIPLINE**

### 17 **(Illegal Drug Possession)**

18 12. Respondent is subject to disciplinary action under section 2878.5,  
19 subdivision (b), on the grounds of unprofessional conduct, in that Respondent illegally possessed  
20 Methamphetamine, a controlled substance, as set forth in paragraph 11, above.

## 21 **THIRD CAUSE FOR DISCIPLINE**

### 22 **(Unprofessional Conduct)**

23 13. Respondent is subject to disciplinary action under Code section 2878,  
24 subdivision (a), in that Respondent committed acts of unprofessional conduct, as described in  
25 paragraphs 11 and 12, above.

## 26 **DISCIPLINE CONSIDERATIONS**

27 14. To determine the degree of discipline, if any, to be imposed on  
28 Respondent, Complainant alleges, as follows:

1 a. On on or about June 24, 1997, in a criminal proceeding entitled *The*  
2 *People of the State of California v. Dayana Maruri*, in Los Angeles County Superior Court, Case  
3 No. 7DW06455, Respondent plead nolo contendere and was convicted of a violation of Penal  
4 Code section 459 (burglary), a misdemeanor.

5 b. The circumstances surrounding the conviction are that on or about on or  
6 about June 19, 1997, and on or about June 22, 1997, Respondent attempted to exchange stolen  
7 merchandise (numerous cosmetic items) at Robinsons-May Department Store without a receipt.  
8 Respondent stole the cosmetic items while working in the store's cosmetic stockroom earlier in  
9 the week.

10 c. Respondent was sentenced to three years of summary probation, twenty  
11 days in county jail, and payment of fines.

12 PRAYER

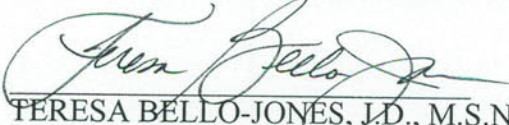
13 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
14 alleged, and that following the hearing, the Board issue a decision:

15 A. Revoking or suspending Vocational Nurse License Number VN 197396,  
16 issued to Dayana Maruri Posada aka Dayana F. Maruri Posada aka Dayana Fernanda  
17 Maruriguevara;

18 B. Ordering Dayana Maruri Posada to pay the Board the reasonable costs of  
19 the investigation and enforcement of this case, pursuant to Business and Professions Code  
20 section 125.3; and,

21 C. Taking such other and further action as deemed necessary and proper.

22 DATED: June 17, 2008.

23   
TERESA BELLO-JONES, J.D., M.S.N., R.N.  
24 Executive Officer  
25 Board of Vocational Nursing and Psychiatric Technicians  
26 State of California  
27 Complainant  
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